IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Richard Wodzianek   CONFIRMATION NO.:   2663

SERIAL NO.:   09/919,069

FILING DATE: July 30, 2001

TITLE: SYSTEM AND METHOD FOR REMOTELY MONITORING MODEM

STATUS

EXAMINER: Walsh, John B.

ART UNIT: 2151

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

    This paper is in support of a Notice to Appeal filed October 27, 2008, of the Office Action dated July 25, 2008, to the Board of Patent Appeals and Interferences.

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REAL PARTY IN INTEREST

Sierra Wireless, Inc.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-26 have been finally rejected and are on appeal.

Claims 27-28 have been canceled.

STATUS OF AMENDMENTS

No amendments after final have been filed. All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

The invention relates to the tracking of modem units that are associated with host processors. The host processor can be part of a personal digital assistants (PDA), a laptop, a desktop, or any such computing platform or device that has a modem unit associated with it. Enterprises that own a multiplicity of such devices may wish to track their status. The modem units associated with the devices are therefore adapted to respond to status check requests sent from a querying program that is running on a remote computer. The responses by the modem units, in the form of status information sent back to the remote computer, are sent without control of the host processor, and are therefore independent of the host processor and platform. This provides versatility and adaptability to the tracking system since it is not reliant on the particular host processor.

Claim 1 recites a system (20; ¶[0009], l. 1) comprising:

a computer (22; ¶[0009], l. 2) operably connected to a network (¶[0009], ll.3-4), the computer having software (24; ¶[0009], l. 2) configured to track the status (¶[0009], ll. 2-3) of multiple modem units (34, 36, 38; ¶[0009], l. 7), the software allowing for the production of status check requests to be sent to the multiple modem units (¶[0010], ll. 1-3); and

modem units (34, 36, 38; ¶[0009], l. 7) for portable devices, configured to receive external status check requests from the computer (¶[0010], ll. 5-8), each of the modem units being associated with a host processor of the respective portable device (¶[0009], ll. 7-8), the modem unit being configured to reply with modem status information (¶[0010], ll. 5-8) in response to the external status check request without being controlled by the host processor in the portable device (¶[0012], ll. 14-16).

Claim 9 recites a computer (22; ¶[0009], l. 2) configured to track the status (¶[0009], ll. 2-3) of multiple modem units (34, 36, 38; ¶[0009], l. 7), said computer producing status check requests to be sent to multiple modem units for portable devices (¶[0010], ll. 1-3), the computer being configured to receive modem status information (¶[0011]) from the multiple modem units, the modem status information being produced by modem units in response to the status check

request (¶[0010], ll. 5-8) without being controlled by host processors of the respective portable devices associated with the modem units (¶[0012], ll. 14-16).

Claim 16 recites a method comprising:

transmitting modem status requests to modem units for portable devices across cellular network (¶[0010], ll. 1-3), each of the modem units being associated with a host processor of the corresponding portable device (¶[0009], ll. 7-8);

at each modem unit, determining whether the status request is for that modem unit (¶[0010], ll. 5-8) and, if so, constructing a modem status response and transmitting a wireless response from modem unit without being controlled by the host processor (¶[0012], ll. 14-16); and

receiving modem status responses from a number of modem units and producing a display for a group of modem units (¶[0013], ll. 1-3).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-26 are unpatentable under 35 U.S.C. §103(a) over U.S. Pat. No. 6,587,691 (Granstam et al, hereinafter, "Granstam") in view of U.S. Pat. No. 7,221,961 (Fukumoto et al, hereinafter, "Fukumoto").

ARGUMENT

Rejection of Claims 1-26 Under 35 U.S.C. §103(a)

Claims 1-15

Claim 1, taken as an example, recites, *inter cilia,* a computer operably connected to a network and having software allowing for the production of status check requests to be sent to multiple modem units of portable devices. The modem units are configured to reply with modem status information, without being controlled by the host processor in the portable device.

These features of Claim 1, which are similarly presented in the other independent claims, are not disclosed in or suggested by Granstam and Fukumoto, considered singularly or in combination. While the system of Granstam is configured to provide status information of different mobile stations (MS) 17, Granstam does not disclose transmission of status check requests from a computer, and of modem status information from modem units in response.

The Office Action points to column 3, lines 3, 11-15 and 42-45; and column 7, lines 15-18 and 35-42 (Office Action, p. 2, 11. 14-15) of Granstam to address the feature of status check requests from the computer. However, while these passages relate to status information of the mobile stations (MS) 17, they do not involve transmission of status check requests from a computer to mobile units, as appellants' claims expressly recite. Similarly, neither these passages nor column 7, line 27; column 8, lines 39-41; nor FIG. 5 (Office Action, p. 2, 11. 19-20) involve transmission of modem status information from modem units in response to status check requests from a computer. Specifically, with respect to position status, Granstam explains that this is determined in a conventional manner, "through locating a connecting base station and/or measuring signal strength and/or time advanced measurement and/or triangulation."[1] With respect to the status of whether the mobile station is "busy/idle and/or

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[1] Granstam, col. 4, ll. 33-37. (A more detailed explanation of this current methodology is also disclosed in col. 7, l. 25 through col. 8, l. 9)

connected/disconnected,"[2] <u>Granstam</u> merely states that "the arrangement comprises further means for detecting a status,"[3] without providing any detail, and certainly without disclosing or suggesting transmission of modem status information from modem units in response to status check requests from a computer as is instantly claimed.

In addition, the Office Action acknowledges <u>Granstam's</u> failure to disclose absence of control by a host processor. (In fact, <u>Granstam</u> does not mention modem units or host processors at all, and treats the mobile stations 17 as unitary devices and provides no discussion of their constituent elements.) To remedy this failure, the Office Action relies on <u>Fukumoto</u>, which discloses a wireless telecommunications unit (10) attachable to an external unit (60) for providing telecommunications and file storage functionality to the external unit. The wireless telecommunications unit (10) includes a wireless communications means (10a) and a general use memory (10b) that effect this functionality, and further includes a microcontroller (22) that provides overall control of the wireless communications means (10a) and general use memory (10b). There is no teaching or suggestion by <u>Fukumoto</u> that operation of the wireless communications means (10a) occurs in the absence of control by the microcontroller (22) as presently claimed. Rather, all operation of the wireless communications means (10a) is described as taking place under the control of the microcontroller (22).[4]

<u>Claims 16-26</u>

Claim 16 contains similar features to claim 1 and the same arguments above are also applicable to claim 16. In addition, claim 16 recites "at each modem unit, determining whether the status request is for that modem unit and, if so, constructing a modem status response and transmitting a wireless response from the modem unit without being controlled by the host processor." This feature is also absent from <u>Granstam</u>, which does not disclose sending status requests to modem units, and therefore could not disclose "determining whether the status request is for that modem unit."

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[2] *Id.*, col. 3, ll. 44-45. (See also col. 7, ll. 16-19)
[3] *Id.*, ll. 41-42.
[4] <u>Fukumoto</u>, col. 10, ll. 33-56.

CLAIMS APPENDIX

1.   A system comprising:

a computer operably connected to a network, the computer having software configured to track the status of multiple modem units, the software allowing for the production of status check requests to be sent to the multiple modem units; and

modem units for portable devices, configured to receive external status check requests from the computer, each of the modem units being associated with a host processor of the respective portable device, the modem unit being configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device.

2.   The system of Claim 1 wherein the computer is connected by the Internet to a server.

3 .   The system of Claim 2 wherein the server is connected to a cellular network.

4.   The system of Claim 3 wherein the computer system sends requests across the network through the server, across the cellular network to the individual modem units.

5 .   The system of Claim 4 wherein the modem units receive the requests and transmit status information back across the cellular network to the computer.

6.   The system of Claim 1 wherein the modem units transmit across a cellular network.

7.   The system of Claim 1 wherein the modem units run the UDP protocol over IP.

8.   The system of Claim 7 wherein the modem units do not have a TCP stack at the modem unit.

9.   A computer configured to track the status of multiple modem units, said computer producing status check requests to be sent to multiple modem units for portable devices, the computer being configured to receive modem status information from the multiple modem units, the modem status information being produced by modem units in response to the status check request without being controlled by host processors of the respective portable devices associated with the modem units.

10.   The computer of Claim 9 wherein the computer is connected by the Internet to a server.

11 .   The computer of Claim 10 wherein the server is connected to a cellular network.

12.   The computer of Claim 9 wherein the modem units are configured to be connected across a cellular network.

13 .   The computer of Claim 1 2 wherein the requests are sent from the computer across the cellular network to the modem unit and the status information is sent from the modem unit across the cellular network to the computer.

14.   The computer of Claim 9 wherein the status information is produced by the modem units using UDP over IP stack.

15.   The computer of Claim 14 wherein the modem units do not use a TCP stack to produce the status information response.

16.   A method comprising:
        transmitting modem status requests to modem units for portable devices across cellular network, each of the modem units being associated with a host processor of the corresponding portable device;

at each modem unit, determining whether the status request is for that modem unit and, if so, constructing a modem status response and transmitting a wireless response from modem unit without being controlled by the host processor; and

receiving modem status responses from a number of modem units and producing a display for a group of modem units.

17. The method of Claim 1 6 wherein the modem status requests are transmitted to the modem units across the cellular network.

18 . The method of Claim 1 6 wherein the modem status requests are sent from a computer to the modem units.

19. The method of Claim 1 8 wherein the computer is connected by the Internet to a server.

20. The method of Claim 1 6 wherein at the modem unit a UDP over IP stack is implemented to interpret the modem status requests and to produce the modem status responses.

21 . The method of the Claim 20 wherein the modem units do not have a TCP stack at the modem unit to produce the modem status responses.

22. The system of Claim 1 wherein the modem status information comprises at least one of:
up and running information; signal strength information; network parameters; and
modem unit identification information.

23 . The computer of Claim 9 wherein the modem status information comprises at least one of:
up and running information;
signal strength information;
network parameters;
and modem unit identification information.

24.   The method of claim 1 6 wherein the modem status information comprises at least one of:

up and running information;

signal strength information;

network parameters; and

modem unit identification information.

25.   The system of Claim 1, wherein each of said modem units is further configured to reply to the host processor with modem status information, in response to a local status check request from the host processor.

26.   The system of Claim 1, wherein each of said modem units includes:

a modem status memory.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,
NIXON PEABODY LLP

Dated: January 27, 2009

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